

**DISTRICT OF COLUMBIA
DEPARTMENT OF INSURANCE, SECURITIES AND BANKING**

NOTICE OF FINAL RULEMAKING

The Commissioner of the Department of Insurance, Securities and Banking, pursuant to the authority set forth in section 125 of the Insurance Trade and Economic Development Act of 2000, effective April 3, 2001 (D.C. Law 13-265: D.C. Official Code Section 31-2231.25 (2001)), hereby gives notice that final rulemaking action was taken to adopt the following rules to be included in Title 26, Chapter 50 of the District of Columbia Municipal Regulations ("DCMR"). These rules will provide the basis upon which insurers may use claims and loss information to properly non-renew homeowners' insurance, and use claims information.

An Emergency and Proposed Rulemaking was adopted on September 17, 2003, and were published in the D.C. Register on October 31, 2003 at 50 DCR 9269. The rules were promulgated on an emergency basis to prevent insurers from using weather-related claims from hurricane Isabel, which occurred on September 17-18, 2003, as grounds to non-renew or deny homeowners' insurance to District of Columbia residents. Several comments were received from interested parties, and substantives changes were made based on those comments. A second Notice of Emergency and Proposed Rulemaking, which superseded the first Notice of Emergency and Proposed Rulemaking was published in the in the D.C. Register on January 23, 2004 at 51 DCR 987.

No comments on the Second Notice of Emergency proposed rules were received. No substantive changes have been made. These rules shall become effective on the date of publication of this notice in the D.C. Register.

26 DCMR is amended by adding a new Chapter 50, Unfair Trade Practices, to read as follows:

**5000 PERMISSIBLE REASONS FOR NON-RENEWAL AND USE OF
CLAIMS HISTORY INFORMATION**

- 5000.1** An insurer shall not refuse to renew a policy of homeowners insurance solely due to claim or loss frequency unless there have been two or more claims during the most recent three-year experience period.
- (a) For purposes of counting the number of claims under subsection 5000.1, the insurer shall not consider the first claim for a loss caused by weather, unless the insurer can provide evidence that the insured unreasonably failed to maintain the property and such failure to maintain contributed to the loss.

- (b) For purposes of subsection 5000.1, the insurer shall not consider the first claim that was reported to the agent or insurer for which no payment was made by the insurer.
- (c) For purposes of subsection 5000.1, the insurer shall not consider a loss for where there was no investigation or other claim activity.
- (d) For purposes of subsection 5000.1, an insurer shall not count any losses caused by a catastrophic event. A catastrophic event shall be a manmade or natural event that causes \$25 million or more in insured property losses, and affects a significant number of property and casualty policyholders and insurers.

5000.2 Every insurer shall provide a notice to its homeowners insurance policyholders that the insurer considers claims history in determining whether to renew the policy. Such notice may be on the declarations page or on a separate notice that accompanies the policy so long as the notice is conspicuous and includes the following statement: "Your insurer may consider your claims and loss history when determining whether to renew your policy."

5000.3 An insurer may refuse to renew a policy of homeowner's insurance due to claim or loss frequency based upon standards more restrictive than those set forth in this rule if the insurer has, at the time of policy issuance or renewal, provided the insured with a written copy of the underwriting standards upon which the insurer based its nonrenewal, so long as the standards are conspicuous.

5001 USE OF CLAIMS HISTORY—NEW BUSINESS

5001.1 In determining whether to issue a homeowners' insurance policy on a property not previously owned by the applicant, an insurer shall not base an adverse underwriting decision solely on the loss history of a previous owner of the property to be insured.